

LAW OFFICES OF DALE K. GALIPO  
Dale K. Galipo, (Bar No. 144074)  
[dalekgalipo@yahoo.com](mailto:dalekgalipo@yahoo.com)  
21800 Burbank Boulevard, Suite 310  
Woodland Hills, California 91367  
Telephone: (818) 347-3333  
Facsimile: (818) 347-4118

## Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

MARK ANTHONY YOUNG,

Case No. CV 08-5438-R (RZx)

**Plaintiff,**

VS.

## COUNTY OF LOS ANGELES, et al.,

### Defendants.

**PLAINTIFF'S OBJECTIONS TO  
DEFENDANTS' PROPOSED  
ORDER RE: MOTION FOR  
SUMMARY JUDGMENT**

Date: None

Date: None  
Time: None

Ctrm: 8

Plaintiff Mark Anthony Young hereby objects to the proposed Order submitted by Defendants in connection with their Motion for Summary Judgment. As set forth below, Defendants' proposed Order should be reconsidered and rejected.

## I. DEFENDANTS' PROPOSED ORDER IS NOT CONSISTENT WITH THE COURT'S PRIOR RULINGS

The Court's Amended Minute Order entered on July 13, 2009 states: "The Court GRANTS the motion for summary judgment as to all remaining causes of action, for the reasons as stated on the record." The proposed order submitted by Defendants, however, contains many findings that were not made by the Court on the record during the hearing. These include, at a minimum, subparts 1 through 5

1 and subpart 7 under section B, relating to Probable Cause to Arrest (Proposed Order  
 2 at 2:15-3:7), subparts 1 through 3 and subpart 5 under section C, relating to  
 3 Excessive Force (Proposed Order at 3:9-22), subparts 1 through 4 under section D,  
 4 relating to Battery (Proposed Order at 3:13-4:9), subparts 1 through 4 and subparts 6  
 5 through 7 and subpart 9 under section E, relating to Negligence (Proposed Order at  
 6 4:11-5:4), and subparts 1 through 8 under section F, relating to False Arrest  
 7 (Proposed Order at 5:6-28). Most notably, the Court did not rule on the issue of  
 8 qualified immunity.

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10 **II. DEFENDANTS' PROPOSED ORDER IS NOT CONSISTENT WITH**  
 11 **THE CENTRAL DISTRICT'S LOCAL CIVIL RULES, DUE**  
 12 **PROCESS, OR THE INTERESTS OF JUDICIAL EFFICIENCY**

13 To the extent the Proposed Order is based on the untimely Proposed  
 14 Statement of Uncontroverted Facts submitted by Defendants well after the hearing  
 15 on the Motion, it is procedurally defective and violates Local Rule 56-1 because the  
 16 Statement was not served with the notice of motion. Submission of the untimely  
 17 Proposed Statement, after Plaintiff already responded in detail to the original  
 18 Statement, does not satisfy notions of fundamental fairness or due process.

19 In addition, the Proposed Order is deficient in that it fails to state the specific  
 20 facts giving rise to its resolutions of contested facts and its conclusions of law, does  
 21 not credit Plaintiff's admissible evidence or reasonable inferences therefrom, and  
 22 does not rule on Plaintiff's evidentiary objections to Defendants' proffered  
 23 evidence. *See Couveau v. American Airlines, Inc.*, 218 F.3d 1078, 1081 ("A  
 24 summary judgment order that fails to disclose the district court's reasons runs  
 25 contrary to the interest of judicial efficiency by compelling the appellate court to  
 26 scour the record in order to find evidence in support of the decision. It also  
 27 increases the danger that litigants, whether they win or lose, will perceive the  
 28 judicial process to be arbitrary and capricious." (citations omitted)); *Hollingsworth*

1     *Solderless Terminal Co. v. Turley*, 622 F.2d 1324, 1335 n.9 (“In general, only  
2 admissible evidence may properly be considered by a trial court in granting  
3 summary judgment.”). The Proposed Order also does not address the parties’  
4 arguments as set forth in their respective memoranda, including the issues regarding  
5 the lawfulness of Deputy Wells’s order, protection of Plaintiff’s speech under the  
6 First Amendment, whether Plaintiff merely “failed to respond with alacrity” to the  
7 order, the *Graham v. Connor* factors for excessive force, and the burden-shifting of  
8 probable cause under Plaintiff’s state law claim.

9           Accordingly, Defendants’ proposal runs contrary to the Court’s prior rulings,  
10 the Local Rules, due process, and judicial efficiency and as such should be  
11 reconsidered and rejected.

12           Respectfully submitted,

13 DATED: July 30, 2009

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Bv: \_\_\_\_\_ /s/ Dale K. Galipo

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Dale K. Galipo  
Attorneys for Plaintiff

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